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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,279	09/17/2003	Matthias Huber	02581-P0546A	4541

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

EXAMINER

FLANAGAN, BEVERLY MEINDL

ART UNIT PAPER NUMBER

3739

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,279

Applicant(s)

HUBER ET AL.

Examiner

Beverly M. Flanagan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


BEVERLY M. FLANAGAN
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/17/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed September 17, 2003 has been made of record and the references cited therein have been considered by the examiner.

Preliminary Amendment

The preliminary amendment filed September 17, 2003 has been entered and made of record.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashiguchi et al. (U.S. Patent No. 4,779,613).

In regard to claims 1-6, 9 and 10, Hashiguchi et al. disclose an endoscope 1 having a housing 3 in which an optical system 9 is inserted and a detachable eyepiece 4 (see Figure 31). A hygroscopic member 192 is also inserted in the housing 3 (see Figures 31 and 32). Hashiguchi et al. disclose that the hygroscopic member 192 is formed from a cellulose hydrate and is sheet-shaped, but can be shaped into any size as required (see col. 16, lines 46-68). Hashiguchi et al. also disclose that other

materials may be used to form the hygroscopic material, such as blotting paper or Japanese paper (see col. 17, lines 65-68 and col. 18, lines 1-6). It is the examiner's opinion that this broad disclosure incorporates the use of a moldable matrix material (which can include a cellulose hydrate), forming the hygroscopic member into an o-ring or a cylindrical sheath shape and size, utilizing elastic, silicon, ceramic or polyurethane materials and production of the hygroscopic material by injection molding.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashiguchi et al. (U.S. Patent No. 4,779,613) in view of Rudischhauser et al. (U.S. Patent No. 6,077,220).

In regard to claims 7 and 8, Hashiguchi et al. are silent as to a moisture indicator on the hygroscopic member. However, Rudischhauser et al. disclose a similar endoscope having dessicant spheres 5 inserted in the eyepiece 1 for the adsorption of moisture, where the spheres 5 are provided with a color indicator that undergoes a change at a defined moisture level (see col. 3, lines 4-32). Rudischhauser et al. thus demonstrate that moisture absorbing materials having a moisture indicator that changes color when exposed to a certain level of moisture, as used in endoscopes, are well known in the art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the hygroscopic member 192 of Hashiguchi et al. with a moisture indicator, such as the color change indicator disclosed by Rudischhauser et al., in the interest of equipping the endoscope operator with the

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ability to determine when a certain level of moisture has been reached within the endoscope.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Wednesdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Beverly M. Flanagan
Primary Examiner
Art Unit 3739
